

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MALIK KENDRICK,

Petitioner,

v.

RONALD OLIVER, *et al.*,

Respondents.

Case No. 2:23-cv-00594-ART-MDC

ORDER APPROVING STIPULATION
AND STAYING ACTION

In this habeas corpus action, the petitioner, Malik Kendrick, who is represented by appointed counsel, filed an amended habeas petition on December 18, 2023. (ECF No. 14.) The respondents filed a motion to dismiss on February 16/2024 (ECF No. 20), and then withdrew that motion (*see* ECF Nos. 24, 25) and filed a revised motion to dismiss (ECF No. 26, filed April 26, 2024). Kendrick is scheduled to respond to the motion to dismiss by May 24, 2024. (*See* ECF No. 25.)

On May 6, 2024, the parties filed a stipulation (ECF No. 27) requesting that this action be stayed pending Kendrick's exhaustion of claims in state court. The parties represent that Kendrick filed a second post-conviction petition in state court on March 18, 2024, and that an evidentiary hearing has been scheduled in that case. (ECF No. 27 at 1–2.) The parties agree that, in light of the ongoing proceedings in state court, this action should be stayed under *Rhines v. Weber*, 544 U.S. 269 (2005). The parties suggest—reasonably so—that staying this action pending completion of the state court proceedings will serve the interests of judicial economy, as the outcome of the state court proceedings could affect the resolution of this case. (*Id.* at 2.) The parties agree that there is good cause for the stay under *Rhines*.

The Court will approve the stipulation and will stay this action pending the conclusion of Kendrick's state court action.

1 It is therefore ordered that the Stipulation to Stay (ECF No. 27) is approved.
2 It is further ordered that this action is stayed while Petitioner completes his
3 pending state court action.

4 It is further ordered that following the conclusion of Petitioner's state court
5 action, Petitioner must, within 30 days, make a motion to lift the stay of this
6 action.

7 It is further ordered that this action will be subject to dismissal if Petitioner
8 does not make a timely motion to lift the stay, or if Petitioner otherwise fails to
9 proceed with diligence during the stay.

10 It is further ordered that The Clerk of the Court is directed to
11 administratively close this case.

12 It is further ordered that Respondents' Motion to Dismiss (ECF No. 26) is
13 denied as moot.

14 DATED THIS 8th day of May 2024.

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16 ANNE R. TRAUM
17 UNITED STATES DISTRICT JUDGE
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